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SENSITIVE
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FOR AF/EPS ABREITER AND GMALLORY

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TAGS: [ETRD](#) [ECON](#) [XA](#) [WA](#)
SUBJECT: NAMIBIA: AGOA ELIGIBILITY REVIEW SUBMISSION

REF: A. STATE 85086
[1](#)B. DEPARIS EMAIL TO ABRIETER AND GMALLORY 06OCT2008

[1](#)1. (SBU) Summary: This cable is the AGOA Eligibility Review submission for Namibia. Responses are keyed to paragraph 3 of reftel. End Summary.

[1](#)2. (SBU)

Country: NAMIBIA
Current AGOA Status: Eligible

[1](#)3. (SBU) Country Background Summary:

Namibia has a population of approximately 2 million. 2007 GNI was \$6.97 billion; 2007 GNI per capita was \$3,360. Namibia's formal economy produces most of its wealth, although traditional subsistence agriculture (mainly in the north) supports most of its labor force. Independent since 1990, Namibia maintains a functioning democracy based on a modern, liberal constitution. In November 2004, the nation elected then Minister of Lands, Resettlement and Rehabilitation Hifikepunye Pohamba as the new President, succeeding the country's founding father and first democratically elected President, Sam Nujoma. Namibia's greatest challenges are to bring the majority of Namibians disadvantaged by apartheid into the economic mainstream while addressing the challenge of HIV/AIDS. On July 28, the Namibian government and Millennium Challenge Corporation (MCC) signed a \$ 304 million grant agreement. The five-year compact will help strengthen access to and quality of Namibia's education and training sector, increase productivity of farm enterprises in communal rural areas and promote growth in Namibia's tourism industry. Namibia has a developed infrastructure. Over half of the country's export earnings come from diamonds and other mineral products including copper, zinc, and uranium. Namibia is also a significant exporter of fish and fish products. Namibia's excellent conservation policies ensure the protection of its fragile ecosystem and abundant wildlife.

[1](#)4. (SBU) Section I. Market Based Economy/ Elimination of Trade Barriers

[1](#)A. Major Strengths Identified

- The economy is modern and market-based, incorporating a rules-based trading system.
- The Foreign Investment Act guarantees foreign investors national treatment, fair compensation in the event of expropriation, international arbitration of disputes between investors and the Government, the right to remit profits, and access to foreign exchange.
- The legal system protects and facilitates acquisition and disposition of property rights.
- Registration of patents, trademarks and designs is administered by the Registrar of Companies, Patents and Trademarks.

- The Namibian Society for Composers and Authors of Music (NASCAM) established in 1994 in terms of the Copyright and Neighboring Rights Protection Act administers and protects musical works.

- A second copyright organization, known as the Namibian Reproduction Rights Organization (NAMRRO) was launched on 27 March 2008. NAMRRO represents the rights of authors and publishers of literary, artistic and dramatic works.

- The transportation infrastructure is well developed and there is a favorable business climate.

- Namibia was ranked 51 out of 181 countries in the 2009 World Bank Doing Business Report. Namibia ranked fourth amongst Sub-Saharan African countries. According to the report, Namibia introduced a new information technology system which reduced the time required to start a business by a month, although it still takes an average of 66 days to start a business (nearly 22 days above the Sub-Saharan average).

- Namibia has responsible economic policies, institutional capacity, and sound banking and financial management practices.

- As a member of the Southern African Customs Union (SACU) and host of the SACU Secretariat, Namibia is an enthusiastic participant in the implementation of the U.S.-SACU Trade, Investment and Development Cooperation Agreement (TIDCA) which was signed in July 2008.

- The government is working to improve service delivery and efficiency through decentralizing sector management.

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- The Government has initiated projects to increase the supply of electricity in response to increased demand in Namibia and the sub-region.

B. Major Issues/Problems Identified

- Income distribution inequalities in Namibia, as measured by the Gini Coefficient, are among the worst in the world. Namibia's Gini Coefficient is 0.6. Aggregated macroeconomic statistics mask huge disparities in wealth and income between different populations.

- Although the government has studied various options for privatization of parastatals and has frequently stated its commitment to instituting provisions for private investment in these organizations, privatization remains slow with almost no active progress.

- The government retains ownership of various assets, including power, telecommunications, transport, and water utilities. Many operate as commercialized entities, operating as businesses independently of subsidies from the national budget. Power and telecommunications parastatals are among Namibia's most profitable companies and pay dividends to the government. There are some parastatals, however, that are draining subsidies from the national budget, such as Air Namibia. Only a limited number of the 41 recognized parastatals produce annual reports on a regular basis.

- Persistent levels of poverty, unemployment, and HIV/AIDS remain the most challenging issues for Namibia. Namibia's HIV prevalence rate is 19.7 percent, according to UNAIDS.

- There is a serious shortage of skilled and specialized workers, especially in the science, engineering and health sectors.

- According to the World Bank, Namibia ranks 150 out of 181 countries for Trading Across Borders. Import/Export documentation requirements are a leading factor in why Namibia lags behind even its regional peers.

- There are often long delays in the processing of work permit applications.

- Increases in demand for electricity and water that may outstrip supply in the short-term which could jeopardize development projects.
- Inflation has recently been driven higher by large increases in food prices, fuel prices and electricity prices.
- There is strong reliance on SACU revenue which contributes a significant share of about 30 percent to government revenues (source: SACU).

15. (SBU) Section: II. Political Reforms/Rule of Law/Anti-Corruption

1A. Major Strengths Identified

- Freedom House's Freedom in the World index ranks Namibia as "Free" (Ranking: 2).
- Several elections since independence have been accepted domestically and by the international community as reflecting the will of the people.
- The constitution provides for an independent judiciary and the government respects this in practice.
- Rights to due process, a fair trial, and equal protection under the law are well established, although the right to a fair trial is limited somewhat in practice by long delays in hearing cases in the regular courts and the uneven application of constitutional protections in the traditional system.
- Anti corruption legislation and institutions have been established to combat corruption. An Anti-Corruption Commission, launched in January 2006, investigates instances of corruptions and refers them to Office of the Prosecutor General for prosecution. Other anti-corruption institutions include the Office of the Ombudsman, the Council for State Owned Enterprises, and the Office of the Auditor General.
- Opposition parties are able to register and participate in elections.

1B. Major Issues/Problems Identified

- A large court backlog, lengthy pretrial detention, and lengthy delays during trials remain problems.

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- The Anti-Corruption Commission has a narrow view of its mandate and often fails to effectively pursue politically sensitive cases. The Anti-Corruption Commission depends on the Prosecutor-General's Office to bring cases to trial, but very few corruption cases have been brought to trial since the inception of the Anti-Corruption Commission.
- Over the past three years Namibia has slipped to 61 out of the 180 countries on Transparency International's Corruption Perception Index. In 2006, Namibia was 55, and in 2007 it ranked 57th.
- The Media Institute for Southern Africa (MISA) Namibia Chapter issued a statement in August 2007 criticizing a motion proposed by Parliament's National Council that MISA argued would restrict freedom of expression, association and assembly.
- Opposition political parties have faced harassment when organizing in some areas of the country, and have had some efforts to hold public rallies frustrated by ruling party supporters.

16. (SBU) Section III. Poverty Reduction

1A. Major Strengths Identified

- The government recognizes the importance of economic growth to poverty reduction and actively encourages inward foreign investment.

Government officials have praised AGOA for creating opportunities for value-added manufacturing.

- In July, the government and MCC signed a \$304.5 million poverty reduction grant to support the education and training sector, increase productivity of farm enterprises in communal rural areas and promote growth in Namibia's tourism industry.
- The government continues to encourage black economic empowerment (BEE) partnerships, many in joint ventures with foreign investors, to increase economic participation of historically disadvantaged Namibians. The government has been criticized, however, for its failure to implement a formal BEE policy.
- Namibia has adopted a fiscally prudent and balanced macroeconomic approach to addressing poverty.
- In the 2008/2009 budgetary year, 9.4 percent of total expenditures were for the health and social services sector and 21 percent were for education.
- The 2008/2009 budget also made provision for an increase in social grants as well as an increase in the number of people covered.
- Growth and poverty reduction are central to the government's goals and have been included in all development policy documentation, including the government's long-term development plan, Vision 2030.
- The government is expected to roll out a countrywide food relief program by the end of September. More than N\$ 228 million (approximately USD \$28.5 million) has been set aside to feed more than half a million vulnerable Namibians for six months as a relief measure against rising food and oil prices.
- The government recognizes the needs of the micro-enterprise sector and is addressing them through policy and legislation to enable more coordinated service delivery and access to credit needed by the large section of the population attempting to enter the formal sector.
- In September, the government announced plans to establish a new bank that would cater specifically to the needs of small and medium-sized enterprises.
- In 2007, the government negotiated a deal with De Beers which will ensure supply of Namibian rough diamonds to local diamond cutting and polishing factories. This has resulted in a major boost for the diamond cutting and polishing sector.
- In the 2008/09 fiscal year, government allocated additional resources to Nampower to support infrastructural development for power generation to ensure security of electricity supply.
- The government allocated substantial resources for the upgrade of airport, roads and railway facilities over the medium term.

B. Major Issues/Problems Identified

- A 2004 Namibia Labor Force Survey determined that chronic unemployment exceeds 36 percent. The rate of female unemployment is higher than that of men.
- After becoming AGOA eligible in 2000, Namibia attracted over \$300 million in investment and created nearly ten thousand new jobs in

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the textile and apparel industry. In May 2008, the Malaysian company Ramatex permanently closed its operations, claiming operational losses.

- Some of the factors that contributed to the closure of two apparel companies include low worker productivity, ongoing labor disputes, transportation delays, strikes, poor public relations, and environmental issues.
- HIV/AIDS threatens to undermine economic growth and social

cohesion. The government recognizes the severity of the problem, and has launched serious counter programs, many in close coordination with USG agencies. Namibia is one of 15 focus countries benefiting under the President's Emergency Plan for AIDS Relief.

- Although the government still lacks an official BEE policy, BEE schemes in general have come under fire for benefiting a select few elites rather than serving as a tool for empowerment.

17. (SBU) Section IV. Workers' Rights/Child Labor/Human Rights

1A. Major Strengths Identified

- The Constitution provides for freedom of association, including freedom to form and join trade unions and the government respects that right in practice.
- Internationally recognized worker rights are protected and respected in the 1992 Labor Act. Forced or bonded labor by adults and children is prohibited.
- The government is working with the ILO to harmonize the work of its Labor Law Courts with other similar courts in the southern Africa region.
- Namibia has ratified 10 of the International Labor Conventions including Convention 182 on the Worst Forms of Child Labor.
- The government launched a National Initiative to Eliminate Exploitative Forms of Child Labor to determine the extent to which child labor exists in Namibia and to eradicate the worst forms of child labor, if such cases are found.
- The government generally respects the rights of its citizens, although there were problems in several areas.
- The government has made progress in improving prison conditions, although conditions at police detention centers continue to raise serious concerns.
- The legislature has passed laws requiring more stringent penalties for rape and child abuse.
- In recent years, there has been significant improvement in the attention paid to women's issues and the rights of the disabled.
- The Prevention of Organized Crime Act enacted in November 2004, but not yet in force, specifically prohibits trafficking in persons. The Government plans to carry out a nationwide study to assess the extent of the problem.
- A new Labor Act of 2007 will come into force on November 1, 2008, It includes conciliation and arbitration provisions, and fixed timelines for reaching settlements.

1B. Major Issues/Problems Identified

- While workers have the right to form and join trade unions, most unions are affiliated with the government.
- There are a small number of independent unions.
- The right to strike is limited to disputes involving specific workers' interests (e.g., pay raises). Unions cannot legally strike on behalf of terminated employees.
- Labor disputes have taken up to three years to resolve. Knowledgeable sources within the employment and labor community estimate there are more than 800 cases awaiting resolution in Labor District Courts.
- No statutory minimum wage law exists, although three labor sectors (construction, security, farm workers) have negotiated minimum wage agreements..
- Child labor is a problem, particularly on communal farms and in the informal sector.

- Government enforcement of labor provisions can be inconsistent.

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Some foreign companies have been publicly criticized for engaging in unfair competition by not following safety and compensation standards, especially in the construction sector.

- There have been some reported instances of security forces assaulting or otherwise mistreating citizens during arrest or in detention.
- Sub-standard conditions and overcrowding in prisons and police detention centers remain challenges.
- Racial and ethnic discrimination, especially in remote rural areas where indigenous people often are unaware of their rights, continues.
- Violence against women and children, including rape and child abuse, continues to be a problem, as well as discrimination against women.
- Limited reporting suggests that Namibia may be a source and destination country for trafficked children; however, the magnitude of this problem is unknown. Press reports and civil society organizations indicate that child prostitution is not uncommon.

18. (SBU) Section V. International Terrorism/U.S. National Security

1A. Major Strengths Identified

- The Namibian Government has been receptive to U.S. counter-terrorism concerns and has pledged cooperation on intelligence sharing, including the exchange of information on suspicious financial flows. The Namibian Government regularly acts on additions to the UN 1267 Sanctions Committee list.
- Pursuant to UNSCR 1373, the Namibian Government has taken certain steps to prevent and suppress terrorism, including signing the International Convention for the Suppression of the Financing of Terrorism in November 2001, and becoming party to the 1979 Convention on the Physical Protection of Nuclear Material in March 2002 and the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation in July 2004.
- There are no legal impediments to the prosecution of terrorists in Namibia.
- The Namibian Government has passed financial intelligence legislation (developed in consultation with the IMF and UN) to establish a financial intelligence center. The legislation is not yet in effect. The center will have anti-terrorist financing responsibilities. The U.S. Department of Treasury is providing technical assistance to help establish the center and to train law enforcement officials in financial investigation techniques.

1B. Major Issues/Problems Identified

- Progress in implementing UNSCR 1373 has been slow; important legislation is still pending. Although Namibia is drafting a Terrorist Activities Bill which will criminalize terrorist financing, the law currently only criminalizes the proceeds of unlawful activities. Namibia has also made little progress in becoming party to the 12 international conventions and protocols relating to terrorism. To date, Namibia has signed only three of the 12 and acceded to two.